

Remarks

Claims 1-3, 11, 13, 16-20 and 23-24 were rejected, while claims 4-10, 12, 14-15, 21-22 and 25 were withdrawn from consideration. Applicants respectfully request favorable reconsideration of the rejections and allowance of the present application in view of the above amendments and following remarks.

On page 2 of the Office Action, the Examiner stated with respect to Applicants' traversal:

"Applicants stated as grounds for traversal that the elected claims 1-3 directed to antigenic determinants of Eimeria lactate dehydrogenase and claims 11, 13 and 15 of Group II directed to vaccines comprising such proteins cover closely related and overlapping art. Applicant's traversal is persuasive for the recombining of Group I and Group II."

The Examiner then listed the claims to be examined, but omitted claim 15, which is part of Group II (as stated above and as set forth in the September 5, 2000 Office Action). Thus, Applicants ask that claim 15 be examined along with claims 1-3, 11, 13, 16-20 and 23-24.

Similarly, the newly added claims 21 and 25 also recite, like claim 15, methods for the protection of poultry against coccidiosis, comprising administering to the poultry a vaccine according to claims 20 and 24,

respectively. Thus, claims 21 and 25 are not "directed to an invention that is independent or distinct from the invention originally claimed" as stated by the Examiner on the top of page 3, since these claims are written in the same format as claim 15 and ultimately depend from the vaccines of claim 11 and claim 3, respectively. Accordingly, Applicants also respectfully ask that claims 21 and 25 be examined together with claims 1-3, 11, 13, 15-20 and 23-24.

The rest of the Examiner's comments on page 3 relating to the restriction requirement appear moot since Applicants did not elect the antibody-based claims.

The Examiner's withdrawal of the claim rejections under 35 USC 112, second paragraph, and 35 USC 102(b) as anticipated by Wisner et al., is acknowledged and appreciated.

Claim 16 has been amended to more appropriately recite that the "isolated protein" of claim 1 has a monomeric molecular weight of about 37 kD. This amendment was not made for patentability reasons and does not narrow the scope of the originally filed claim.

Claims 1-3, 11, 13, 16-20 and 23-24 were rejected under 35 USC 102(b) as anticipated by Binger et al. The Examiner stated in part that Binger et al. disclose several

immunogenic Eimeria proteins including an Eimeria schizont protein that has a molecular weight of about 37 kilodaltons. This rejection is traversed.

The claimed invention is not anticipated by Binger et al. at least for the same reasons why the Examiner earlier agreed that the cited Wisher et al. reference was not anticipatory.

Applicants' specification describes that the isolated protein of the claimed invention is an intracellular protein in Eimeria. Specifically, the specification states on page 6, lines 8-11, that the protein of the invention "is found intracellularly in Eimeria and it appears to contain high sequence homology with known heterologous lactate dehydrogenases (LDH)." In contrast, the Binger et al. patent discloses surface antigens of Eimeria, stating, for example, in the first sentence of the "Summary of the Invention": "This invention provides purified proteins or fragments thereof having one or more immunoreactive and/or antigenic determinants of an Eimeria surface antigen." (emphasis added) Thus, the protein of Binger et al. is different from the claimed isolated protein, and thus the Binger et al. patent does not anticipate the claimed invention.

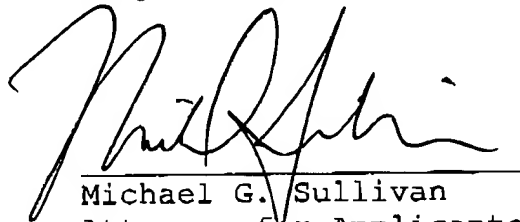
Furthermore, the Binger et al. patent also appears not to suggest Applicants' claimed invention.

Accordingly, Applicants respectfully ask that the rejection be withdrawn.

In view of the foregoing, the present application is now in condition for allowance. Reconsideration and favorable action are earnestly solicited.

If any fees are due in this application, please charge our Deposit Account No. 02-2334.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael G. Sullivan", is written over a horizontal line.

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Version Showing Changes Made

16. The protein according to claim 1, wherein said
[LDH] protein has a monomeric molecular weight of about 37
kD.